

WASHINGTON STATE TORT CLAIM FORM

General Liability Claim Form #SF 210

For Official Use Only

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the state of Washington. Some of the information requested on this form is required by RCW 4.92.100 and is subject to public disclosure pursuant to RCW 42.56.

PLEASE TYPE OR PRINT CLEARLY IN INK

Mail or deliver original claim to Department of Enterprise Services
Office of Risk Management
1500 Jefferson Street SE, MS 41466
Olympia, Washington 98504-1466
Phone: (360) 407-9199
Fax: (360) 507-9251
Email: Claims@des.wa.gov

Business Hours: Monday – Friday 8:00 a.m. – 5:00 p.m.
Closed on weekends and official state holidays.

1. Claimant's name: Teweldemedhin, Makele* 02/01/1982
Last name First Middle Date of birth (mm/dd/yyyy)
2. Inmate DOC number (if applicable): _____
3. Current residential address: See attached
4. Mailing address (if different): See attached
5. Residential address at the time of the incident: See attached.
(if different from current address)
6. Claimant's daytime telephone number: _____
Home Business or Cell
7. Claimant's e-mail address: See attached.
8. Date of the incident: See attached Time: ☐ a.m. ☐ p.m. (check one)
(mm/dd/yyyy)
9. If the incident occurred over a period of time, date of first and last occurrences:
from See attached. Time: ☐ a.m. ☐ p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
to _____ Time: ☐ a.m. ☐ p.m.
(mm/dd/yyyy) (mm/dd/yyyy)
10. Location of incident: See attached.
State and county City, if applicable Place where occurred

* Personal Representative of the Estate of Marta Haile

11. If the incident occurred on a street or highway:

Name of street or highway	Milepost number	At the intersection with or nearest intersecting street
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12. State agency or department you believe is responsible for damage/injury:

See attached.

13. Names and telephone numbers of all persons involved in or witness to this incident:

See attached.

14. Names and telephone numbers of all state employees having knowledge about this incident:

See attached.

15. Names and telephone numbers of all individuals not already identified in #13 and #14 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

See attached.

16. Describe how the state of Washington caused your injuries or damages (If your injuries or damages were not caused by the State, do not use this form. You must file your claim against the correct entity). Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

See attached.

17. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom? Please attach a copy of the report or contact information.

See attached.

18. Names, addresses and telephone numbers of treating medical providers. Submit copies of all medical reports and billings.

See attached.

19. Please attach documents which support the allegations of the claim.

20. I claim damages from the state of Washington in the sum of \$ 18 million.

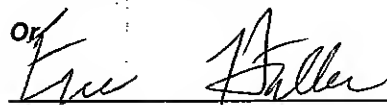
This Claim form must be signed by one of the following (check appropriate box).

- ☐ Claimant
- ☐ Person holding a written power of attorney from the Claimant
- ☐ Attorney in fact for the Claimant
- ☒ Attorney admitted to practice in Washington State on the Claimant's behalf
- ☐ Court-approved guardian or guardian ad litem on behalf of the Claimant

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signature of Claimant

Or



Signature of Representative

Evan T. Fuller

Print Name of Representative

Date and place (residential address, city and county)

May 28, 2019, 2301 N. 30th Street, Tacoma, WA 98403 Pierce County

Date and place (residential address, city and county)

48024

Bar Number (if applicable)

TORT CLAIM FORM ATTACHMENT

ESTATE OF HAILE, ET AL. VS. STATE OF WASHINGTON, DEPARTMENT OF CORRECTIONS

1. Identities of Claimants.

This claim for damages is filed by the Estate of Marta Haile; Marta Haile's surviving minor children, Solyana Makele and Nathan Makele; and Marta Haile's parents, Tesfaldet H. Mowes and Amete U. Salm. The claimants are represented by attorneys Lincoln C. Beauregard and Evan T. Fuller of Connelly Law Offices, PLLC.

2. Cause of Injuries and Damages.

This claim arises from the brutal murder of Marta Haile on April 16, 2018 by Offender Christopher Yacono. Yacono was on active DOC community custody and supervision at the time of the murder. DOC's supervision of Yacono was negligent and grossly negligent. At the time of the attack, which led to her death, Marta was pregnant. She and the baby both died as a result of Offender Yacono's vicious attack.

- a. Background: Offender Yacono Breaks into Marta Haile's Residence, Slams Her into Walls and the Floor, Beats Her to a Pulp with a Cooking Pot, Pours Beer on Top of Her as She Lies in a Pool of Her Own Blood, Pulls Her Pants Down, and May Have Raped Her; Marta is Semi-Conscious Throughout the Entire Attack; Marta Ultimately Dies from Catastrophic Brain Injury; Marta was Pregnant at the Time of the Attack and Her 18-Week Old Fetus Dies.**

On April 16, 2018, Marta Haile was enjoying a normal day at her home when the front door of her residence was violently kicked down by Offender Yacono. As noted, Marta was 18 weeks pregnant. Yacono entered the residence, grabbed Marta's head, and proceeded to slam it viciously against the wall and floor. He then picked up a cooking pot and beat her senseless with such force that the pot's handle broke off. During and immediately after the attack, Marta suffered excruciating pain and suffering as she was beat to a pulp, as well as fear and terror over the attack, her impending death, and the viability of her unborn child. Indeed, when law enforcement arrived, Marta was still conscious and moaning as she lay in a pool of her own blood. Offender Yacono later admitted that as Marta lay dying on the ground, he took a beer out of her refrigerator and threw it at her. Law enforcement noted that there was "beer splattered on the victim and on the floor and wall near her." Marta's pants were also partially pulled down. DOC's own assessment was "if [law enforcement] would have not arrived when they did, [Offender Yacono] would have raped her." It does not appear to have ever been ruled out whether Yacono did or did not rape Marta as she lay conscious and critically wounded in a pool of her own blood and beer on the floor of her home.

As the Affidavit of Probable Cause notes, "Ms. Haile, who was 18 weeks pregnant, suffered catastrophic and irrecoverable brain injury as a result of the attack by the defendant and was declared brain-dead days after the assault. Soon after she spontaneously delivered the unviable fetus, Ms. Haile was removed from life support and pronounced dead on April 30, 2018."

b. Liability: Offender Christopher Yacono – Criminal History.

Prior to the start of DOC's negligent and grossly negligent 2017-2018 community custody, Offender Yacono had an extensive and violent criminal history. His past four criminal convictions all related to threats or act of violence. Specifically:

1. **May 8, 2017:** Felony Cyberstalking (Threats to Kill) – DV Classification;
2. **May 8, 2017:** Felony Arson 1;

3. **June 5, 2015:** Felony Assault 2 – with Deadly Weapon;
4. **November 20, 2014:** Misdemeanor Assault 4;
5. **July 24, 2012:** Misdemeanor Minor in Possession of Alcohol;
6. **July 3, 2012:** Misdemeanor Disorderly Conduct;
7. **July 3, 2012:** Misdemeanor Anti-Harassment Protection Order;
8. **June 12, 2012:** Misdemeanor Malicious Mischief 3;
9. **Jun 8, 2012:** Misdemeanor Reckless Driving;
10. **June 3, 2010:** Possession of Drugs and Drug Paraphernalia;
11. **February 6, 2008:** Misdemeanor Possession, Delivery, Manufacture with Intent to Deliver Drug Paraphernalia.

As discussed below, Offender Yacono also had an extensive and well-documented history of severe mental illness, as well as a history of non-compliance with Court-mandated treatment requirements.

c. Liability: DOC Swift and Certain Sanctioning.

At the time of the April 2018 attack that killed the pregnant Marta Haile, Offender Yacono was subject to DOC Swift and Certain violation/sanction policies – as set forth in greater detail below:



**OFFENDER NOTIFICATION OF
DEPARTMENT VIOLATION PROCESS**

Offender Name: YACONO, Christopher D. DOC Number: 383342
 County, Cause and Commitment Number(s): Snohomish AB 16-1-01495-31;

Per RCW 9.94A.631, if an offender violates any condition or requirement of a sentence, a Community Corrections Officer (CCO) may arrest or cause the arrest of the offender without a warrant, pending a determination by the court or by the Department of Corrections (DOC).

DOC has determined you meet the criteria for Swift and Certain Sanctioning. The emphasis of Swift and Certain Sanctioning is to encourage compliance with your Court and DOC conditions. *It is your responsibility to understand your conditions. Your CCO is available to answer any questions you may have. Failure to comply will result in Swift and Certain Sanctioning.*

PROCESS

1. All violations will be addressed through a Department violation process.
2. Your first low level violation process may be addressed with a Stipulated Agreement, unless a hearing process is required due to aggravating circumstances.
3. Subsequent low level violation processes, up to 5, may be addressed through a short term confinement sanction of 1-3 days in custody, unless a hearing process is required due to aggravating circumstances. After 5 low level violation processes, all violation processes will be addressed through a hearing process.
4. Any high level violations will be addressed through a hearing process or a dismissal with prejudice.
5. A hearing process will be a hearing with a Department Hearing Officer. If you are found guilty, you will receive a sanction of up to 30 days of confinement unless you are subject to a return under RCW 9.94A.633 or a revocation.
6. You have the right to appeal any violation process.

VIOLATIONS

High level Violations

- 6th or subsequent low level violation process on an open cause
- Weapons use/possession
- Contact with a prohibited business/location or person
- Domestic Violence related violation behavior
- Threatening/Assaultive behavior
- Search refusal
- Use of device/adulterants to interfere with/alter the UA process
- Unauthorized possession of ammunition or explosives
- Absconding from supervision as defined in DOC 350.750 Warrants, Detainers, and Holds
- Unapproved residence for a sex offender (current offense)
- Failure to submit to a scheduled polygraph test
- Any behavior resulting in a new misdemeanor, gross misdemeanor, or felony arrest that requires a Failure to Obey All Laws violation hearing (Underlying Felony offenders only)

Low level Violations

- All other violations not listed as High

**A low level violation can be addressed through a Department hearing if defined aggravating factors are present and validated per DOC 460.130 Violations, Hearings, and Appeals.*

VIOLATION PROCESSES

1st Low level Violation Process or a Mitigated Arrest – Stipulated Agreement

- If the offender refuses to sign the stipulated agreement or is arrested on a Secretary's Warrant, s/he is ineligible for the non-confinement option

2nd - 5th Low level Violation Process – Mandatory Arrest

- 1-3 days confinement
- Misdemeanor offenders with insufficient suspended confinement time remaining will be referred back to the sentencing court for revocation/termination

6th+ Low level Process, all High level Violations, Low level Violations with validated aggravating factor(s), and all Combination Violations (contains both High and Low Violations) – Mandatory Arrest

- Proceed with a Department hearing with a maximum of 30 days confinement
- Misdemeanor offenders with suspended confinement time remaining may have a Department hearing or be referred back to the sentencing court for revocation/termination. Misdemeanor offenders with no suspended confinement time remaining must be referred back to the court.
- Mandatory 30 day sanction for threats/assault violations committed against employees or their families

AGGRAVATING FACTORS

(to address Low level Violation through a Department Hearing)

(must be directly related to the alleged violation)

- Escalating aggression
- Behavior during the commission of the violation that manifested deliberate harm, cruelty, or intimidation of the victim(s)
- Physical resistance
- Posing a significant risk to public safety while failing to comply with Department imposed electronic monitoring
- Offense Cycle Behavior that indicates potential harm or threat of harm to a previous or potential victim(s)

d. Liability: Under Swift and Certain, Offender Yacono Should Have Been Incarcerated on April 11, 2018, Thereby Preventing the April 16, 2018 Murder of Marta Haile.

As noted above, in 2016-2017, Offender Yacono was charged, convicted, and sentenced for felony Cyberstalking (Threat to Kill) and Arson. The Affidavit of Probable Cause describes Yacono's violent acts leading to these charges, which are eerily familiar to his murder of Marta Haile:

"[Yacono] entered the complex and went to the victim's apartment, F203. He then began pounding on the victim's door.... [A neighbor] heard the loud knocks and then heard loud kicking. She then heard a loud male voice. When the victim arrived home, he found his apartment door unsecured.... Inside the apartment he found that his bed was smoldering from a fire. He also found that Sriracha hot sauce had been splattered on the walls of the living room, oatmeal had been spilled in the kitchen, and a DVD had been bent in half.... [Two days later] the Defendant showed up knocking on the victim's door.... Finally, [Yacono] began to texting the victim threats. He texted "Bitch wtf is up?" and "Talkin shit about me and Ima kill you".... [Victim] indicated in the statement that he did not feel safe and knew the Defendant well enough that he believe the Defendant would follow through with his threats. He told the police that he believe the Defendant's threat that he would kill him, and indicated that he knew the Defendant carried a knife in his pocket..... Search incident to arrest turned up a knife in the Defendant's right pants pocket."

Yacono's November 1, 2017 Guilty Plea Statement – and self-disclosures therein – add further elucidation into his severe mental health problems and manic violent tendencies – for example:

"I wasn't in a good mind state. When he didn't answer the door I broke in. I was suffering from mental illness and dillusional [sp] and I did a bunch of weird stuff and at some point caused his bed to catch fire. Five days later.... I threatened him in a text then drove to his house when he didn't respond."

On October 31, 2017, Offender Yacono was released from prison and began DOC-supervised community custody. Yacono was classified as a High Violent ("HV") offender. Even before the initiation of Yacono's 2017-2018 community custody, DOC's file on Yacono contained numerous, well-documented references to his severe mental health issues, as well as non-compliance with Court-mandated treatment requirements and prior instances in which his mental health rapidly and dangerously deteriorated – for example:

1. **June 4, 2015:** from Judgement and Sentence (Felony Assault 2 – with Deadly Weapon). Judge specifically adds handwritten requirement emphasizing need for and importance of mental health treatment for Offender Yacono – "Defendant must participate in mental health evaluation and treatment.... Defendant must provide proof to the Court of active participation in mental health evaluation and treatment. Defendant must provide such proof to the Court by July 31, 2015;"
2. **June 17, 2015:** from DOC chronological records. "06/17/2015... [Yacono] was open about his life, and we developed a safe word in case he enters into a manic phase.... 07/01/2015... [Yacono] informed me that he stopped taking his medication because it was making him feel weird.... 08/04/2015... [Yacono] presented as paranoid.... 01/21/2016... [Yacono] also mentiond that he was in mental health treatment before but didn't like the Rx that he had to take.... 05/26/2016,,, [Yacono's] boss (Jolie – Juneau's Appliance) called (3x) to inform me [Yacono] is no longer going to be employed by their company due to his erratic behavior.... [Yacono's] boss said I should UA him because his behavior is way off his

baseline.” Despite this increasingly troubling behavior – *and* a subsequent failure to report – DOC nevertheless closed supervision of Yacono ten days later;

3. **October 28, 2017:** from Offender Needs Assessment. Boxes checked for “mental health concerns,” “mental health problems based on file material and/or offender’s self-report,” and “documented mental health diagnosis... Bi-polar;” and
4. **November 1, 2017:** from Intake/Pre-Sentence Report. Offender Yacono self-discloses “diagnosed as suffering from Severe Mental Illness.”

Soon after beginning DOC community custody in 2017, Offender Yacono’s non-compliant behavior immediately began to manifest and his mental health started to deteriorate. Notably, Yacono was frequently non-compliant with Court and DOC-mandated probation requirements for mental health and chemical dependency treatment. This non-compliant behavior is well-documented in DOC’s chronological records.

Notably, prior to April 11, 2018, Offender Yacono had unequivocally violated the conditions of his supervision on *at least* five (5) occasions, including but not limited to:

1. **November 21, 2017:** drugs violation (suboxone and THC). Resulting sanction – stipulated agreement for weekly reporting for UAs;
2. **November 28, 2017:** drugs violation (THC) and curfew violation. Resulting sanction - stipulated agreement to for weekly reporting;
3. **December 20, 2017:** MIA violation (3 days) and drugs violation (THC). Resulting sanction – three days at MCC;
4. **March 2, 2018:** failure to contact CD provider. Resulting sanction – two days detention at MCC;
5. **March 13, 2018:** multiple violations for positive UA, reported drug use, no AA slip, and out of compliance with both MH and CD treatment – as confirmed by provider’s progress report and CCO Rowley’s discussions with Yacono in-person. However, CCO Rowley was preparing to leave for a long leave/vacation and negligently failed to sanction Offender Yacono. Moreover, despite this clear escalating non-compliance, CCO Rowley declined to have Yacono meet with a different CCO during Rowley’s absence, and instead, simply told Yacono to check back in approximately a month later when Rowley returned from leave/vacation.

Following the March 13, 2018 violations, under DOC’s Swift and Certain policies, Offender Yacono should have been incarcerated pending a Department hearing. On a more probable than not basis, once the Department hearing occurred, Yacono would have received a 30-day confinement sanction and been incarcerated as of April 16, 2018. A 30-day sanction is consistent with the sanction that DOC recommended – and Yacono received – approximately a month later (*see* April 18, 2018 Report of Alleged Violation). It is also consistent with the opinion of DOC community corrections consultant, Dan Hall – as discussed in greater detailed below.

Regardless, any question of whether Offender Yacono should have been incarcerated as of April 16, 2018, is resolutely answered in the affirmative with the unequivocal documentation of Yacono’s multiple violations on April 11, 2018. Specifically, DOC chronological records confirm the following violations on April 11:

1. Non-compliance with CD treatment due to unexcused absences. Specifically, Offender Yacono only attended 5 ½ out of 13 required treatment sessions;
2. Non-compliance with housing curfew requirements;
3. Unknown and unconfirmed whereabouts for three (3) days; and
4. Intent to reside at a non-DOC approved address.

Indeed, DOC's chronological records from April 11 indicate that Offender Yacono even acknowledged that he was out of compliance – and “trying to get back into compliance” – with the mandated CD treatment. CCO Rowley acknowledges that “[Yacono] has been given plenty of time [to get into individual counseling],” and yet, had still not done so in direct contravention of CCO Rowley's prior directives and Yacono's Court and DOC mandated conditions of supervision. Nevertheless, CCO Rowley did not violate and incarcerate Yacono – as was required and directed under DOC's Swift and Certain policies. Of note, on April 11, 2018, CCO Rowley had just returned from leave/vacation, which likely contributed to his grossly negligent inaction that directly and proximately resulted in the brutal murder of Marta Haile and her 18-week-old fetus.

At a minimum, Offender Yacono's violations documented on April 11, 2018 constituted “6th or subsequent low level violations” under DOC's Swift and Certain policies, thereby requiring the incarceration of – and a Department sanction hearing for – Offender Yacono. However, as noted earlier, the April 11 violations were far in excess of the 6 violation threshold, which was actually breached on March 13, 2018.

Following the April 11, 2018 violations, under DOC's Swift and Certain policies, Offender Yacono should have been incarcerated pending a Department hearing. On a more probable than not basis, once the Department hearing occurred, Yacono would have received a 30-day confinement sanction and absolutely been incarcerated as of April 16, 2018. A 30-day sanction is consistent with the sanction that DOC recommended – and Yacono received – approximately a week later (*see* April 18, 2018 Report of Alleged Violation). It is also consistent with the opinion of DOC community corrections consultant, Dan Hall – as discussed in greater detailed below.

Ultimately, there is no question that under DOC's Swift and Certain policies, Offender Yacono should have been incarcerated as of April 16, 2018, due to – at a minimum – six (6) unequivocal violations of the conditions of his supervision. It is also important to point out that there are numerous other violations prior to April 11, 2018, that have not yet been addressed herein, including but not limited to:

1. **January 23, 2018:** from DOC chronological records. Yacono had not been working or actively searching for work for the past three months. Yacono was also not in school;
2. **February 8, 2018:** from DOC chronological records. Yacono not in compliance with AA requirement for Dodson House; and
3. **March 6, 2018:** from DOC chronological records. Yacono noted to have been out of treatment compliance due to lack of AA attendance. Yacono had also been on community placement for three months and had still not provided his CCO with a mental health evaluation or progress report.

e. Liability: Offender Christopher Yacono Admits to Murdering Marta Haile.

Despite the pending criminal trial date, there is absolutely no question whatsoever that Offender Yacono murdered Marta Haile and her 18-week-old fetus. Indeed, after being arrested on April 16, 2018, Yacono spoke with Mountlake Terrace Police Department detectives and admitted to the murder:

The defendant told the detective that he had been in the area picking up his phone from the house next door. The phone was dead so he sat in his car charging it. The defendant stated that he was “compelled” to go into the house and that after knocking and not receiving an answer he kicked the door in. The defendant said he encountered Ms. Haile in the living room and she screamed and began to “resist” so he grabbed her and slammed her head into the wall. Ms. Haile fell to the ground and continued to yell so the defendant slammed her head onto the hardwood floor twice to stop her from screaming. The defendant said that he took a beer from the refrigerator and threw it at the unconscious victim before grabbing a cooking pot from the kitchen and hitting her on the head until he broke the pot. The defendant told the officer that he then grabbed a beer out of the refrigerator and left the residence when police arrived.

f. Liability: Declaration of DOC Community Custody Expert Consultant Dan Hall.

Dan Hall is an expert consultant in the field of community corrections and offender supervision. From 1973 until 2002, Mr. Hall worked for the State of Washington, Department of Corrections. Mr. Hall served as a Community Corrections Officer II & III and eventually, from 1996 to 2002, as a Community Corrections Supervisor. In that final role, he was responsible for supervising and managing a DOC field office and as many as twenty-six subordinate Community Corrections Officers.

Mr. Hall has reviewed records and materials relating to this claim, including DOC records, including judgment and sentences, criminal history, offender release plan, OMNI Chronos (chronological records), and the Incident Review Report that was completed in September 2018. Mr. Hall opines – on a more probable than not basis to a reasonable degree of certainty – that DOC failed to exercise even slight care in its supervision of Christopher Yacono – specifically:

It is my opinion that a reasonably prudent Community Corrections Officer (“CCO”) should have incarcerated Offender Christopher Yacono on April 11, 2018. On this date, Yacono committed – at a minimum – his sixth violation of the Court and DOC-mandated conditions of supervision.... Pursuant to Swift and Certain, on April 11, 2018, Offender Yacono should have been incarcerated pending a Department hearing. In neglecting to take these necessary actions, DOC failed to exercise even slight care in its supervision of Yacono. On a more probable than not basis, if DOC had properly violated and incarcerated Yacono, Yacono would have absolutely been incarcerated as of April 16, 2018, and once a Department hearing occurred, thereafter received a 30-day confinement sanction.... In failing to violate and incarcerate Yacono on April 11, 2018, DOC and CCO Rowley failed to exercise even slight care in the supervision of Yacono.

See Declaration of Dan Hall – included herewith.

g. Damages: Estate of Marta Haile.

As a direct and proximate result of DOC’s negligence and gross negligence, Marta Haile was viciously beaten by Offender Yacono on April 16, 2018. There is extensive record evidence – including Yacono’s own statements – that Marta retained consciousness during and after this violent attack that resulted in catastrophic brain injuries and the termination of her pregnancy. The Estate of Marta Haile has claims for pre-death pain and suffering, economic damages, and other special and general damages.

h. Damages: Solyana Makele and Nathan Makele – Minor Children of Marta Haile.

As a direct and proximate result of DOC’s negligence and gross negligence, Solyana Makele and Nathan Makele – the minor biological children of Marta Haile – have claims for loss of parental consortium and other general damages. Of note, as Offender Yacono was viciously beating her pregnant mother, Solyana was in the same residence, and when located by law enforcement, was found hiding and sobbing uncontrollably.

i. Damages: Tesfaldet H. Mowes and Amete U. Salm – Parents of Marta Haile.

As a direct and proximate result of DOC’s negligence and gross negligence, Tesfaldet H. Mowes and Amete U. Salm – the biological parents of Marta Haile – have claims for loss of consortium and other general damages.

3. Persons Involved in Incident or With Knowledge of Incident.

Marta Haile

Deceased

Christopher Yacono

Incarcerated

Lemlem Akubthu

Solyana Makele

Abebe Abitew

Namuna Kassaye

c/o Connely Law Offices

2301 N. 30th Street

Tacoma, WA 98403

Other persons to be supplemented as the investigation into this matter continues and discovery in this matter commences.

4. State Employees Having Knowledge of Incident.

Various DOC employees and supervisors will have knowledge of the events giving rise to this claim. The identities of these individuals are known to DOC and are contained within the Department's own records and files on this matter. By way of illustration and not limitation, the following DOC employees will have knowledge of the facts giving rise to liability:

CCO Robert "Josh" Rowley

CCS Saurel Favard

Other persons to be supplemented as the investigation into this matter continues and discovery in this matter commences.

5. Other Individuals with Knowledge of Liability.

Other individuals to be supplemented as the investigation into this matter continues and discovery in this matter commences.

6. Investigation by Law Enforcement.

Mountlake Terrace Police Department

Other law enforcement entities to be supplemented as the investigation into this matter continues and discovery in this matter commences.

7. Treating Medical Providers.

Harborview Medical Center

Other medical provider entities to be supplemented as the investigation into this matter continues and discovery in this matter commences.

8. Documents Supporting Allegations.

See also DOC records on Offender Christopher Yacono, as well as other records and materials to be supplemented as the investigation into this matter continues and discovery in this matter commences.

9. Claim for Damages.

\$18 million.

As provided by RCW 4.92.110, the State has 60 days to review this claim. Please let us know if the State is interested in discussing this claim before the filing of a formal complaint or if you have any questions or need additional information.

1 DAN HALL declares as follow:

2 1. I am above the age of eighteen and competent to testify to the matters
3 described herein and do so based on my own personal knowledge.

4 2. I am an expert in the field of community corrections and offender supervision.
5 From 1973 until 2002, I worked for the State of Washington, Department of Corrections. I
6 served as a Community Corrections Officer II & III and eventually, from 1996 to 2002, as a
7 Community Corrections Supervisor. In that final role, I was responsible for supervising and
8 managing a DOC field office and as many as twenty-six subordinate Community Corrections
9 Officers. A true and correct copy of my CV is attached hereto as Exhibit 1.

10 3. Since my retirement from Department of Corrections, I have been employed as
11 a corrections consultant on numerous occasions for legal matters. I have reviewed applicable
12 Department of Corrections policies and have seen them change over the years. By virtue of
13 my knowledge, training, education, and experience, I am very familiar with the standard of
14 care for community corrections. I know what is required of reasonably prudent community
15 corrections officers and supervisors within the State of Washington.

16 4. I have conducted a preliminary review of the 2017-2018 Department of
17 Corrections supervision of offender Christopher Yacono. This includes review of pertinent
18 Department of Corrections ("DOC") records, including judgment and sentences, criminal
19 history, offender release plan, OMNI Chronos (chronological records), and the Incident
20 Review Report that was completed in September 2018, as well as other DOC and law
21 enforcement records. These materials are of the type ordinarily and reasonably relied upon by
22 corrections experts, and they provided more-than-sufficient basis for me to form opinions
23 about the propriety of Offender Yacono's community supervision. Those opinions are set

1 forth below and given on a more-probable-than-not basis, to a reasonable degree of certainty.

2 5. By way of background, on April 16, 2018, Marta Haile was in her home when
3 the front door of her residence was kicked down by Offender Yacono. Ms. Haile was 18
4 weeks pregnant. Yacono entered the residence, grabbed Ms. Haile's head, and proceeded to
5 slam it against the wall and floor. He then picked up a cooking pot and beat her with such
6 force that the pot's handle broke off. When law enforcement arrived, Ms. Haile was moaning
7 as she lay in a pool of her own blood. Yacono later admitted that as Ms. Haile lay critically
8 injured on the ground, he took a beer out of her refrigerator and threw it at her. Law
9 enforcement noted that there was "beer splattered on the victim and on the floor and wall near
10 her." Ms. Haile's pants were also partially pulled down. Ms. Haile was ultimately transferred
11 to Harborview Medical Center. As the Affidavit of Probable Cause notes, "Ms. Haile, who
12 was 18 weeks pregnant, suffered catastrophic and irrecoverable brain injury as a result of the
13 attack by the defendant and was declared brain-dead days after the assault. Soon after she
14 spontaneously delivered the unviable fetus, Ms. Haile was removed from life support and
15 pronounced dead on April 30, 2018."

16 6. Prior to DOC's 2017-2018 community custody supervision, Offender Yacono
17 had an extensive and violent criminal history. His past four criminal convictions appear to all
18 relate to threats or acts of violence. Specifically:

19 **May 8, 2017: Felony Cyberstalking (Threats to Kill) – DV Classification;**

20 **May 8, 2017: Felony Arson 1;**

21 **June 5, 2015: Felony Assault 2 – with Deadly Weapon;**

22 **November 20, 2014: Misdemeanor Assault 4;**

23 **July 24, 2012: Misdemeanor Minor in Possession of Alcohol;**

1 **July 3, 2012:** Misdemeanor Disorderly Conduct;
2 **July 3, 2012:** Misdemeanor Anti-Harassment Protection Order;
3 **June 12, 2012:** Misdemeanor Malicious Mischief 3;
4 **Jun 8, 2012:** Misdemeanor Reckless Driving;
5 **June 3, 2010:** Possession of Drugs and Drug Paraphernalia;
6 **February 6, 2008:** Misdemeanor Possession, Delivery, Manufacture with Intent to
7 Deliver Drug Paraphernalia.

8 7. As noted, on May 8, 2017, Offender Yacono was sentenced for felony
9 Cyberstalking (Threat to Kill) and Arson. From a factual standpoint, these crimes shared
10 some interesting similarities to Yacono's subsequent home invasion and murder of Ms. Haile.
11 Specifically, Yacono kicked down the door on an apartment, lit the victim's bed on fire, threw
12 food all over the apartment's interior, and later threatened to kill the victim before ultimately
13 being arrested. Upon his arrest, Yacono was carrying a knife.

14 8. On October 31, 2017, Offender Yacono was released from prison and began
15 DOC-supervised community custody. Yacono was classified as a High Violent ("HV")
16 offender. By this time, DOC's file on Yacono already contained numerous references to his
17 severe mental health issues, as well as prior non-compliance with Court-mandated treatment
18 requirements and prior instances in which his mental health rapidly deteriorated.

19 9. It is my opinion that a reasonably prudent Community Corrections Officer
20 ("CCO") should have incarcerated Offender Christopher Yacono on April 11, 2018. On this
21 date, Yacono committed – at a minimum – his sixth violation of the Court and DOC-
22 mandated conditions of supervision. These six violations are as follows:
23

- 1
- 2 i. **November 21, 2017:** drugs violation (suboxone and THC). Resulting
- 3 sanction – stipulated agreement for weekly reporting for UAs for one
- 4 month;
- 5 ii. **November 28, 2017:** drugs violation (THC) and curfew violation.
- 6 Resulting sanction - stipulated agreement to report weekly for 3 weeks;
- 7 iii. **December 20, 2017:** MIA violation (3 days) and drugs violation (THC).
- 8 Resulting sanction – three days at MCC;
- 9 iv. **March 2, 2018:** failure to contact CD provider. Resulting sanction – two
- 10 days detention at MCC;
- 11 v. **March 13, 2018:** multiple violations for positive UA, reported drug use, no
- 12 AA slip, and out of compliance with both MH and CD treatment – as
- 13 confirmed by provider’s progress report and CCO Rowley’s discussions
- 14 with Yacono in-person. (Note: records indicate that CCO Rowley was
- 15 preparing to leave for an extended leave/vacation and negligently failed to
- 16 sanction Offender Yacono. CCO Rowley’s parting instruction to Yacono
- 17 was to simply check back in approximately a month later when Rowley
- 18 returned from leave/vacation);
- 19 vi. **April 11, 2018:** multiple violations for non-compliance with CD treatment
- 20 due to unexcused absences (Yacono only attended 5 ½ out of 13 required
- 21 treatment sessions; non-compliance with housing curfew requirements;
- 22 unknown and unconfirmed whereabouts for three (3) days; and residing at
- 23 a non-DOC approved address.

1 10. Pursuant to Swift and Certain, on April 11, 2018, Offender Yacono should
2 have been incarcerated pending a Department hearing. In neglecting to take these necessary
3 actions, DOC failed to exercise even slight care in its supervision of Yacono. On a more
4 probable than not basis, if DOC had properly violated and incarcerated Yacono, Yacono
5 would have absolutely been incarcerated as of April 16, 2018, and once a Department hearing
6 occurred, thereafter received a 30-day confinement sanction. A 30-day sanction is consistent
7 with the sanction that DOC recommended approximately a week later (*see* April 18, 2018
8 Report of Alleged Violation).

9 11. Furthermore, DOC's OMNI chronological records from April 11 indicate that
10 Offender Yacono even acknowledged that he was out of compliance – and “trying to get back
11 into compliance” – with the mandated CD treatment. Notably, CCO Rowley also
12 acknowledges that “[Yacono] has been given plenty of time [to get into individual
13 counseling],” and yet, had still not done so in direct contravention of CCO Rowley's prior
14 directives and Yacono's Court and DOC-mandated conditions of supervision. Nevertheless,
15 CCO Rowley did not violate and incarcerate Yacono – as was required under DOC's Swift
16 and Certain policies. It is also worth noting that, on April 11, 2018, CCO Rowley had just
17 returned from leave/vacation. In failing to violate and incarcerate Yacono on April 11, 2018,
18 DOC and CCO Rowley failed to exercise even slight care in the supervision of Yacono.

19 12. Finally, DOC's OMNI chronological records reflect numerous other likely
20 violations by Yacono during the 2017-2018 time frame, including but not limited to:

- 21 i. **January 23, 2018:** Yacono had not been working or actively searching for
22 work for the past three months. Yacono was also not in school;
23 ii. **February 8, 2018:** Yacono was not in compliance with AA requirement

1 for Dodson House;

2 **iii. March 6, 2018:** Yacono noted to have been out of compliance with
3 required treatment due to lack of AA attendance. Yacono had also been on
4 community placement for three months and had still not provided his CCO
5 with a mental health evaluation or progress report.

6 I declare under penalty of perjury of the laws of the State of Washington that the
7 foregoing is true and correct to the best of my knowledge and belief.

8 Signed this 21st day of May, 2019 at Shoreline, Washington.
9 Date Month City

10 

11 DAN HALL